Criminal Revision No.104 of 1993.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Dalip Singh and another **...** Petitioners

VERSUS

State of Punjab **...**Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLR MR. JUSTICE MOHINDER PAL.

Present: Mr. Narinder Singh, Advocate,
for the petitioners.

Mr.P.S. Grewal, Assistant Advocate General, Punjab.

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MOHINDER PAL, J.

Mr. P.S. Grewal, learned Assistant Advocate General, Punjab, has stated at the Bar that appellant Bhagwant Singh has since died. Accordingly, proceedings against him abate.

Petitioner Dalip Singh alias Mata and his son

Bhagwant Singh (since deceased) along with their co-accused Janak Singh, another son of petitioner Dalip Singh, were sent up for trial for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code (hereinafter referred to as `the Code'). The Sub Divisional Judicial Magistrate, Phul, vide judgment and sentence order dated November 21, 1989, convicted petitioner Dalip Singh under Section 326 of the Code and sentenced him to undergo rigorous imprisonment for nine months and to pay a fine of Rs.300/- and in default of payment of fine to undergo further rigorous imprisonment for two months.

Against this judgment of conviction and sentence order, the appeal preferred before the lower appellate Court was dismissed vide judgment dated January 30, 1993,

This Revision Petition has been filed to challenge the afore-stated judgments and the sentence order.

Learned counsel for the petitioner does not challenge his conviction. He, however, submitted that petitioner Dalip Singh remained in custody for two months and sixteen days as per the custody certificate, which has been produced in Court today and taken on record. The learned counsel prayed that lenient view may be taken against petitioner Daliip Singh and that the impugned sentence order may be modified.

In the case of **Nirmal Singh v. State of Punjab, 2005 (1) R.C.R (Criminal) 477,** where the accused was convicted under Sections 324, 325 and 326 of the Code and the incident was seventeen years old, the sentence of

rigorous imprisonment was reduced from two years to already undergone i.e one month. However, the petitioner was directed to pay compensation of Rs.10,000/- to the complainant.

In this case, the occurrence took place on November 16, 1986. The only injury in this case which is attributed to petitioner Dalip Singh is on non-vital part of the body i.e leg of complainant Lahoara Singh (P.W.2). The petitioner was convicted by the trial Court on November 21, 1989. His appeal was dismissed by the lower appellate Court on January 30, 1993. The present revision petition was admitted by this Court on February 18, 1993. Thus, the sword of conviction has been hanging over the head of the petitioner for the last more than eighteen years. This by itself is a sufficient punishment. No useful purpose will be served in sending the petitioner to prison at this stage. The sentence of imprisonment already undergone by him will meet the ends of justice.

Consequently, conviction of Dalip Singh (petitioner) under Section 326 of the Code is maintained. However, the sentence of his rigorous imprisonment is reduced to the one already undergone by him. The sentence of fine awarded to Dalip Singh petitioner is enhanced to Rs.5,000/-. He will deposit this amount in the trial Court within a period of two months from the date of receipt of a certified copy of this order. Needless to say, if the petitioner fails to comply with the direction of depositing the amount of fine in the trial Court within the period stipulated above, this revision petition shall be deemed to have been dismissed. If the amount of fine of

Rs.5,000/- is deposited, the trial Court is directed to disburse the same to complainant Lahora Singh by way of compensation. The impugned sentence order stands modified to the extent indicated above.

This revision petition stands disposed of accordingly.

November 13, 2007. **(MOHINDER PAL)**
ak **JUDGE**